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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,359	10/22/2001	Kazuo Sano	214187US2PCT	9233
22850	7590	03/18/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			LEE, TOMMY D	
			ART UNIT	PAPER NUMBER
			2624	

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,359

Applicant(s)

SANO ET AL.

Examiner

Thomas D. Lee

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20020125</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Specification

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Response to Amendment

3. This Office action is responsive to applicant's preliminary amendment, filed November 22, 2001. Claims 1-16 are pending.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 2, 5, 7, 8, 10, 12 and 14, the phrase "such as" (line 5 of claims 1 and 2, and lines 4-5 and 15 of claims 7 and 8 (see original claims); lines 3 and 4 of claims 5, 10, 12 and 14 (see Preliminary Amendment)) renders the claims indefinite because it is unclear whether the limitations following the phrase are part of the claimed

Art Unit: 2624

invention. See MPEP § 2173.05(d). Claims 3, 4, 6, 9, 11, 13, 15 and 16 depend from claims 1, 2, 5, 7, 10, 12, 14 and 8, respectively.

Claims 5 and 12 recite the limitation "the difference of spectral transmittance ΔT -n" in line 4 of claims 5 and 12 (see Preliminary Amendment). There is insufficient antecedent basis for this limitation in the claims. Claim 6 depends from claim 5, and claim 13 depends from claim 12.

Claim 9 recites the limitations "the difference ΔT -n" in line 4 (see Preliminary Amendment), and "the ΔT -n" in line 5. There is insufficient antecedent basis for these limitations in the claim.

Claims 10 and 14 recite the limitation "the difference of spectral reflectance ΔR -n" in lines 3-4 of claims 10 and 14. There is insufficient antecedent basis for this limitation in the claims. Claim 11 depends from claim 10, and claim 15 depends from claim 14.

Claim 16 recites the limitations "the difference ΔR -n" in lines 2-3, and "the above difference ΔR -n" in line 3. There is insufficient antecedent basis for these limitations in the claim.

Claims 5, 10, 12 and 14 each recite "the difference of color specification value," "the color difference," and "the color difference calculated from the statistical value." These limitations also lack sufficient antecedent basis.

Furthermore with regards to claims 7 and 8, it is not clear what is meant by "*presuming* components such as a coloring agent component mixed in the sample indicating the abnormal value or *presuming* its mixed amount via the following

respective steps” (lines 15-17 of claims 7 and 8, emphasis added). It is unclear whether “presuming” is meant to be an actual method step (“presuming” is associated with a thought as opposed to a physical act, and thus a presuming step would not make sense), or whether a step is to be performed on the basis of a presumption.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,740,079 (Shigemori et al.).

Regarding claims 1 and 3, Shigemori et al. disclose a method for evaluating the reproducibility of a toning sample by CCM, which comprises, under the conditions that there are 2 or more samples produced in a CCM toning or visual toning process by which colors are adapted to the target color and respective components such as a coloring agent defining the sample color are registered in a CCM system, evaluating the reproducibility of the samples based on the difference $\Delta R-n$ (n denotes a sample number) between spectral reflectance RST-n obtained by actually measuring the respective samples and spectral reflectance RPR-n obtained by the CCM simulation corresponding to the coloring agent recipe for the sample at the same n, wherein evaluation of the reproducibility of the samples is performed from the difference between either of n for $\Delta R-n$, or an average for $\Delta R-n$ and the $\Delta R-n$ (spectral reflectance

Art Unit: 2624

measured with spectrophotometer, also measured in advance for a dye or pigment at different temperatures; difference computed at each wavelength; spectral reflectance corrected (Abstract; column 2, lines 29-48)).

Regarding claims 2 and 4, Shigemori et al. disclose a method for evaluating the reproducibility of a toning sample by CCM, which comprises, under the conditions that there are 2 or more samples produced in a CCM toning or visual toning process by which colors are adapted to the target color and respective components such as a coloring agent defining the sample color are registered in a CCM system, evaluating the reproducibility of the samples based on the difference $\Delta T-n$ (n denotes a sample number) between spectral transmittance TST- n obtained by actually measuring the respective samples and spectral transmittance TPR- n obtained by the CCM simulation corresponding to the coloring agent recipe for the sample at the same n , wherein evaluation of the reproducibility of the samples is performed from the difference between either of n for $\Delta T-n$, or an average for $\Delta T-n$ and the $\Delta T-n$ (spectral transmittance measured with spectrophotometer, also measured in advance for a dye or pigment at different temperatures; difference computed at each wavelength; spectral transmittance corrected (Abstract; column 2, lines 49-58)).

Allowable Subject Matter

8. Claims 5, 6 and 9-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: As best understood by the examiner, no prior art has been found to disclose or suggest applicant's step of performing evaluation based on the difference of color specification value ($\Delta L^*a^*b^*$ corresponding to the difference of spectral reflectance ΔR_n), statistical value (maximum, minimum and standard deviation of the difference of color specification value and the color difference), as well as the color difference calculated from the statistical value, as recited in claims 5 and 12; or performing evaluation based on the difference of color specification value ($\Delta L^*a^*b^*$ corresponding to the difference of spectral transmittance ΔT_n), statistical value (maximum, minimum and standard deviation of the difference of color specification value and the color difference), as well as the color difference calculated from the statistical value, as recited in claims 10 and 14.

10. Because of the level of indefiniteness of claims 7 and 8 (in particular, the step of "presuming" as noted above), no determination has been made at this time as to whether these claims are allowable over prior art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas D. Lee whose telephone number is (703) 305-4870. The examiner can normally be reached on Monday-Friday (7:30-5:00), alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David K. Moore can be reached on (703) 308-7452. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2624

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thomas D. Lee
Primary Examiner
Art Unit 2624

tdl
March 16, 2005